REVISED

MINUTES OF THE JOINT EXECUTIVE APPROPRIATIONS COMMITTEE
May 16, 2006 at 1:00 P.M.
Room W135, House Building, Senate Capitol Complex

Members Present:	Sen. Lyle Hillyard, Co-chair Rep. Ron Bigelow, Co-chair Sen. Gene Davis Sen. Mike Dmitrich Sen. Dan Eastman Sen. Karen Hale Sen. Peter Knudson Sen. Ed Mayne Pres. John Valentine Rep. Jeff Alexander Rep. Ralph Becker Speaker Greg Curtis Rep. Ben Ferry Rep. Patricia Jones Rep. Brad King Rep. Roz McGee Rep. Stephen Urquhart Sen. Curtis Bramble, Vice Chair Rep. David Clark, Vice Chair
Members Excused:	Sen. Beverly Evans
Staff Present:	John Massey, Legislative Fiscal Analyst Michael Kjar, Deputy Director, Fiscal Analyst Greta Rodebush, Secretary
Others Present:	Juliette Tennert, LFA Sophia DiCaro, Governor's Office of Planning and Budget Greg Sheehan, Department of Natural Resources Steve Allred, LFA Kent Beers, DFCM, Keith Stepan, DFCM, Connie Steffen, LRGC John Schaff, OLAG Tom Upton, State Office of Education Troy Pritchett, Milliman USA Burke Jolley, Jordan School District Kerry Smith, Provo City School District Arnold Combe, University of Utah

Joan Gines, University of Utah
Loretta Harper, University of Utah
Mark Spencer, USHE

A list of visitors and a copy of handouts are filed with the committee minutes.

1. Call to Order

Committee Co-Chairman Ron Bigelow called the meeting to order at 1:25 p.m.

2. Federal Funds Report

Sophia DiCaro, Governor's Office of Planning and Budget, presented the list of federal assistance applications requiring legislative action since April 30, 2006, federal assistance applications approved by the Governor's Office since April 30, 2006, and a list of 386 grants tracked by the Governor's Office as of April 30, 2006.

Juliette Tennert, LFA, informed committee members that on March 31, 2006, the Department of Natural Resource submitted a request for high impact federal funds through the Endangered Species Program to acquire land for a desert tortoise habitat. In order for an agency to receive funds under a high impact federal funds request, Utah Code 63-38e-204(3) requires legislative approval in an annual general session or a special session within three months after submission of the request.

Greg Sheehan, Administrative Services Chief, Division of Wildlife Resources, stated that the Department of Natural Resources had applied for $15.4 million in federal grant monies to purchase conservation property in Washington County for a desert tortoise habitat. He explained that a state match requirement of $5.1 million would be met by an in-kind contribution of land located in Snow Canyon State Park. He anticipates that this project will enhance the value of the state park.

Rep King spoke favorably about the project's partnership between federal, state and county governments.

Sen Hale asked if this request for approval will be addressed at the upcoming special session.

President Valentine indicated that it was his intent to ask the Governor to have this item placed on the call for the May 24th special session.

Mr. Sheehan anticipates that requests for federal monies for these types of acquisitions will continue in the future, and in light of existing legislation, he suggested that the application review cycle be adjusted to coincide with the regular general session.

> **MOTION:** Co-Chairman Hillyard moved to approve the seven applications on the Federal Assistance Applications list, dated April 1, 2006 through April 30, 2006, and to recommend to the Governor that the approval of the Endangered Species Program grant application be included on the upcoming special session call. The motion passed unanimously with Sen. Davis, Sen. Eastman, Rep. Alexander, Rep. Ferry, Rep. Urquhart, and absent for the vote.

Approval of Minutes

> **MOTION:** Co-Chairman Hillyard moved to approve the minutes of April 18, 2006. The motion passed unanimously with Sen. Davis, Sen. Eastman, Rep. Alexander, Rep. Ferry, and Rep. Urquhart, absent for the vote.

3. Report on Capital Improvement Funding

Steve Allred, LFA, explained that the purpose of the report was to update the committee on the state's facilities condition assessment program and how well capital improvement funds are addressing maintenance needs. Mr. Kent Beers, Program Director, DFCM, commented on the report's findings along with Mr. Keith Stepan, Director, DFCM. Mr. Beers noted that in 2000, with only 36% of state-owned buildings assessed, there was an estimated 10-year deferred maintenance of $478 million. In 2005, with 99% of state-owned buildings assessed (including higher education institutions), the 10-year deferred maintenance figure reached $1.3 billion. The main source of funding comes from the capital improvement program. By statute, 1.1 percent of the replacement value of the state-owned buildings must be appropriated; consequently, in FY 2007, the Legislature appropriated $65 million for deferred maintenance. Mr. Beers noted that expected improvement funding over the next ten years is approximately $822 million, which in and of itself, will not address all maintenance needs currently identified. Additional sources of funding include operation and maintenance budgets and capital developments.

Sen. Hillyard inquired about the increases in deferred maintenance. Mr. Beers attributed these increases to the completion of building assessments, construction inflation (between 2004 and 2005 costs increased by 20% to 25%), and some deferred maintenance items escalating at an exponential rate as repairs become replacements.

Rep. Becker asked what percent of the replacement value should be funded in order to close the gap between deferred maintenance and capital improvement funding. Mr. Beers stated that there was one national study that recommends that the funding level should be between 2-4% of the replacement value of existing buildings. He said that there is no state that currently sets aside funding at that level.

Mr. Stepan indicated that Utah as a state does well compared to other states. He noted that Brigham Young University uses about 2.5 percent of the replacement value to adequately keep up with maintenance.
John Massey, LFA, recognized Utah's Capital Improvements Program and fiscal analysts, Steve Allred and Jonathan Ball, who had recently appeared before the Joint Legislative Oversight Committee on Capital Improvements of the North Carolina General Assembly.

4. Progress Report on Charter School Study

Connie Steffen, LRGC, stated that some adjustments have been made to the study based on feed back received from the committee. LGRC and LFA have been jointly working together on the charter school study that includes funding, growth, and governance issues of charter schools. Because the Legislative Auditor has been assigned to look at the financial aspects of charter schools, an effort is being made to ensure that the same kinds of studies are not being done.
Ms. Steffen indicated that the Legislative Auditor will be examining the financial condition of charter schools to include sources of revenue, teachers salaries, and capital facilities and maintenance as compared to school districts. She noted that LRGC will continue to look at funding and governance models in other states to get ideas on alternative ways of funding charter schools.

Ms. Steffen commented on the May 2, 2006 draft of the Request for Proposal (RFP) on "Charter Schools". Under the direction of Rep. Bigelow, they have changed the scope of the RFP and included questions directed at getting information from local school board members, charter school administrators, and charter school governing board members, that would be helpful to the legislature in making decisions on how to fund and manage the growth of charter schools.

Sen. Hale asked in light of the fact that the RFP does not specifically address funding issues, would either the Auditor's or LRGC be able to look at Utah's ability to fund both charter and traditional schools. Ms. Steffen indicated that this would be the role of the LFA.

Co-Chair Bigelow stated that the issue of funding is more policy driven than it is based upon the information they will receive from this study. The information will impact policy decisions but ultimately funding decisions will be made by this committee.

Sen Bramble made reference to the recent legislation that authorized no more than five new charter schools for the 2007-2008 school year, and observed that the RFP is more of an opinion survey. He emphasized the importance of addressing the methodology of funding charter schools.

Rep Bigelow pointed out that it was important to develop charter school policy to correctly fund charter schools. Funding issues in the most recent general session were driven by the fact that the funding of charter schools had shifted from local school districts to the state. The purpose of presenting the RFP draft was to get feedback from the committee and make changes where needed.

Pres. Valentine asked for a clarification on the types of reports that would be generated by this study. Ms. Steffen indicated that there would be three reports: the Auditor's report on the funding status of charter schools and how they compare with school districts, the RFP which will generate raw information, and LRGC's report on funding models in other states.

Pres. Valentine asked the Legislative Auditor to explain the scope of the charter school audit.

John Schaff, Legislative Auditor, stated that his office intends to examine the source of funding for charter schools and schools within one or more districts. They will also look at expenditures including salaries, physical facilities, and capital investments; whether charter schools are following core curriculum; and the extent of parental involvement. He indicated that this audit would be prepared and completed at the RFP's designated time of delivery in September.
Ms. Steffen indicated the LRGC report would be ready as well.

Rep. Clark encouraged broad parent representation in this study. Ms. Steffen mentioned that they will be getting responses from parents who are members of the charter school boards. Sen. Davis asked if the salary comparison will account for levels of education, certification, and years of experience. Mr. Schaff indicated that they are currently collecting that type of information even though many charter schools do not have salary ranges from which to select a bench mark for comparison. Rep. Alexander expressed an interest in developing an outline or financial plan for groups interested in starting successful charter schools. John Massey, LFA, indicated that such a request would be appropriate to the study and Mike Kjar, LFA, stated that they will involve the State Office of Education and charter school boards in addressing those types of issues.

Mr. Schaff asked if the committee would be interested in an analysis on capturing funds as a student leaves one school district to attend another. Rep. King expressed a strong interest in having that information.

Sen. Hale requested that the study include an analysis of the number of students who leave traditional schools to attend a charter school and then return. Rep. Alexander pointed out that it will be important to ask parents why their students left a school district, and added, that if students left for educational reasons, then the issue at hand may be one of competition.
Sen. Bramble spoke in support of Rep. Alexander's comments, stating that the fundamental question is

"why are school districts losing students to charter schools?" as opposed to "what can be done to protect school district funding sources?"

5. Public Education - Report on plans for Post Employment Liabilities

Tom Upton, State Office of Education, reported on the status of the contracted actuarial study to determine post employment benefit liabilities for Utah's 40 school districts. Currently the consulting actuary is gathering and analyzing information from the districts and will be reporting on the base evaluations in the next few months.

Troy Pritchett, Milliman USA, commented on the "Presentation of Assumptions for Study of GASB 45 and 47 Liabilities of Utah School Districts" handout. Under GASB 45 and 47, the evaluation will look at termination benefits, other post employment benefits, and special pay plans of the 40 school districts. He explained that the GASB standards are not yet in effect and this is the first time that government entities are required to report liabilities on other post employment benefits as well. He spoke to the discount rate assumption and the medical trend assumption along with current medical expenses, and the difference of medical expenses of retirees and average active employees.

Rep. McGee inquired as to completion date of the final report. Mr. Pritchett stated June 30, 2006. Rep. Clark asked if the 5.5% health care cost trend was realistic. Mr. Pritchett projects that the health care cost trends will not be in the double digits like they have been in the past 5 years. In any respect, accounting for inflation, the rate will represent a substantial increase in health care costs. Rep. Clark expressed concern that the retiree population will be buying the most expensive health care. He thought the 5.5% projection in health care cost trends was soft.

Burke Jolley, Business Administrator, Jordan School District, explained that the district had started setting aside reserves five years ago to get a handle on post employment retirement benefits liabilities. These costs have been running about $8 million a year and to date, $27 million had been set aside. In December 2004, an actuarial study estimated Jordan School District's liability to be about $260 million dollars. It is now approaching $300 million. Based upon recommendations of the Legislative Auditor General, the district negotiated with employee groups to terminate those benefits effective July 1, 2006. They have spent a considerable amount of time with employee groups discussing ways to terminate those benefits that would be least harmful to employees. The Board of Education has received a lot of criticism for the action they have taken. If the legislature decides to create legislation to terminate or modify school districts' employee benefits similar to what has been done to state employees benefits, Mr. Jolley asked that an exemption be made for those school districts who have taken the lead in complying with OLAG's recommendations.

Sen. Davis asked about the cost of early retirements in Jordan School District and the replacement cost to hire a new teacher. Mr. Jolley estimated that the district will spend about $11 million this year and that it will be a 3-4 year cost. The $27 million should off set any amount over $8 million a year. He stated that there are costs and savings associated with new hires. He noted, however, that there is a huge loss in the area of experienced educators.

Sen. Hillyard asked how many of the 40 school districts will have a problem meeting their post employment benefits. Mr. Pritchett indicated that most districts have some post employment benefits liability and that it depends on what they have promised their employees. Mr. Jolley referred to the Legislative Auditor's report that estimated a total liability figure for school districts to be $1.4 billion in 2005.

Sen. Davis commented that as we do away with post retirement benefits, who ultimately is going to pay for the coverage that is lost. If we do not have a good retirement benefits plan that is funded appropriately, he commented that perhaps Medicare, Medicaid, or the state will be paying the cost for these individuals.

Rep. Alexander recognized Jordan and Provo School Districts for taking the lead in this area and would expect that the other school districts are assessing their needs and protecting themselves.

Rep. Clark explained that GASB 45 and 47 outline minimum standards. He recognized that Jordan and Provo had made efforts to adequately cover those costs. He expressed his concern that some school districts are choosing different accounting terms which allow them to act outside GASB requirements. He hopes that the other schools districts can provide the legislature with an accurate benefit cost and current funding status. Rep. Clark asked if the State Board of Education is going to allow the school districts to interpret accounting definitions without uniform guidelines.

Tom Upton, State Board of Education, stated that in the base study there are some guidelines for recording liabilities for other post employment benefits (OPEB) and termination benefits in the upcoming report. Out-of-pocket costs for termination benefits in each of the school districts will be reported on as well. He further mentioned discussions with the school districts on possible technical solutions in determining the real liabilities of those benefits.

Rep. Clark asked if the same actuarial assumptions for OPEB were going to be applied to termination benefits? Troy Pritchett explained the inherent differences under GASB 45 and 47. It is the school districts' understanding that those standards determine the accounting treatment for those liabilities.

Rep. Clark stated that there are large potential costs, and the sooner we recognize them the better off we will be and the better able to project future costs. There is a proper way to accrue those costs and there should be accountability to the state of Utah and the taxpayers.

Representative Bigelow announced that Item #8 on the agenda, Statewide Leasing Report, will be addressed in next month's EAC meeting.

Rep. Jones mentioned that the public is concerned about the impact on attracting and retaining quality teachers. She asked what impact these actions have had on Jordan School District.

Mr. Jolley indicated that 120-125 teachers have retired, and almost 300 additional teachers have announced they will retire this year. Recruitment of qualified people is going well. It is difficult to measure the educational experience they will be losing.

Kerry Smith, Provo City School District, reported on the progress being made to address these new government accounting standards. He provided the committee with a handout "OPEB" (other Post Employment Benefits, April 17^{th}, 2006), a summary of plans developed to modify District post-employment benefits. He stated that Provo City School District has the highest liability in the state and that they have been aggressively making recommendations and formulating funding strategies for this year in order to offer benefits that they can realistically provide. He noted that in a recent meeting with school district business administrators on the subject of OPEB, a majority of them indicated that they were actively trying to reduce post employment benefits in their respective school districts. Regarding concerns on how school districts interpret the accounting terms, he stressed that the real test lies in being able to meet those obligations when they come due.

Co-Chairman Bigelow informed the committee that item #7, Compensation Funding Mix, will be addressed in next month's EAC meeting.

6. Higher Education -Post Employment Liabilities.

Arnold Combe, Vice President for Administration, University of Utah, addressed the committee. He indicated that the actuarial study on post employment benefits was nearly complete and that he did not anticipate any changes to the summary of results on the handout "University of Utah, Post Employment Benefits, as of 6-30-2005" when the final report comes out. He commented on the liabilities for the Retiree Health Benefits Program under GASB 45 and the Early Retirement Incentive Program under GASB 47 as well as the actuarial assumptions used for the study. The Retiree Health Benefits Program provides health benefits to those who have retired, but are under the age of 65. The retiree pays 100% of the group health insurance premium, but has an "implicit subsidy due to the retiree contributions or premiums being based on blended active/retiree costs rather than retiree only costs." The University's liability for those who have fully retired and are 65 year of age or older is $-0- as of January 1, 2006. The Early Retirement Incentive Program is not an entitlement benefit and its cost is covered by turnover savings. Also available for comment was Loretta Harper, Vice President, and Joan Gines, Associate

Vice President, both of Human Resources.

Sen. Hillyard inquired as to the status of the other eight universities.

Mark Spencer, Associate Commissioner of Higher Education, USBR, indicated that they will use the University of Utah's actuarial study as a model to review post employment liabilities for the other institutions over the next three months.

Rep. Clark asked if the 4% discount rate and the 5% medical inflation rate reflected in the assumptions for the University of Utah study will be used in the actuarial studies for the other higher education institutions. Dr. Spencer stated that they would use those numbers.
Rep. Clark asked for a clarification on the liability totals for the Early Retirement Incentive Program represented on the results summary as compared to those represented on University of Utah financial records. Mr. Combe responded that he would review those figures to see if there were any discrepancies. Finally, Rep. Clark asked him to explain the difference between state funding and non-state funding.

MOTION: Co-Chair Hillyard moved to adjourn. The motion passed.

Co-Chairman Bigelow adjourned the meeting at 3:07 pm.